

Chairperson John R. Clark
Vice-Chairperson Michael Parks
Parliamentarian Don Maxwell



Commissioners
Michael Beckendorf
John Bond
Helen Chavarria
Ralph Davila
Robert Horton
G.H. Jones

MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, MAY 22, 2008
AT 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.*

1. CALL TO ORDER.

Chairperson Clark called the regular meeting to order at 6:00 pm

Commissioners	Present	2008 Regular Meetings Held	2008 Regular Meetings Attended	Regular Meetings Held During Last 6 Months	Regular Meetings Attended During Last 6 Months
Michael Beckendorf	No	10	6	12	8
Johnny Bond	Yes	10	10	12	12
Helen Chavarria*	No	10	8	12	8
John R. Clark	Yes	10	10	12	12
Ralph Davila	Yes	10	10	12	12
Robert Horton	Yes	10	8	12	12
G. H. Jones	Yes	10	10	12	12
Don Maxwell	Yes	10	8	12	12
Michael Parks	Yes	10	7	12	12

*appointed in January 2008

Staff members present were: Ms. Lindsey Guindi, Planning Manager; Mr. Lee Veness, Assistant City Attorney; Mr. Michael Gary, Assistant City Attorney; and Ms. Kelli Hill, Planning Intern.

2. HEAR CITIZENS.

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.

No affidavits were filed.

4. Administrative Appeal AA08-01: Buckey Lee Turk, Jr.

R. Haynes

An appeal of the Site Development Review Committee's decision to deny off-street parking spaces to extend into public right-of-way for South Texas Avenue, specifically in front of property located at 3828 South Texas Avenue, occupying Lot 2 in Block 1 of North Oakwood Subdivision in Bryan, Brazos County, Texas.

This item was removed from consideration at the request of the applicant.

5. Rezoning RZ08-14: Blackcliffs Investment, LLC

M. Zimmermann

A request to change the zoning classification from Agricultural-Open District (A-O) to a combination of Multiple-Family District (MF) and Retail District (C-2) on 26.41 acres of vacant land out of Stephen F. Austin League No. 10, adjoining the north side of Old Reliance Road and extending 700 – 1,500 feet northeast from its intersection with North Earl Rudder Freeway (State Highway 6) in Bryan, Brazos County, Texas.

Ms. Guindi presented a staff report (on file in the Development Services Department). Staff recommends approval of the zoning request based on the following findings:

- The proposed combination of MF and C-2 zoning on these 26+ acres is appropriate at this particular location and is in accordance with land use recommendations of the Comprehensive Plan;
- The proposed arrangement of land uses at this location will promote orderly urban growth in this now largely undeveloped area;
- This zone change request, if approved, will not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development;
- If approved, staff believes there to be few, if any, effects on other areas designated for similar developments; and
- The requested change, in this particular case, should have no adverse effects on adjacent properties.

Commissioner Parks asked if the staff had looked at the traffic generation based on future zoning of this property. Ms. Guindi stated that at this point, they are looking at the appropriateness of the specific land use. At the time of platting and site planning, she stated, it is not uncommon that staff does identify traffic issues and requires traffic impact analysis from a developer.

Commissioner Parks asked her to elaborate on any plans for Old Reliance, or the interchange at Highway 6 with Old Reliance. She stated that the City is currently in the process of acquiring right-of-way to do a widening project on Old Reliance from approximately the city limits to the North Earl Rudder Freeway. She said there are also some signal improvements, turn lane improvements, and other projects that the Texas Department of Transportation is planning.

The public hearing was opened.

No one came forward.

The public hearing closed.

Commissioner Jones moved to recommend approval of Rezoning RZ 08-14, as requested, accepting the findings of staff. Commissioner Bond seconded the motion.

Commissioner Parks expressed his concerns about development in this area in terms of the transportation network to support it. He stated that it takes years to get infrastructure in place and that the decisions the Commission makes concerning the way property develops will have a real impact on the community; especially given that the high school is across the street, which will increase the traffic generated in the area. He thinks the Commission would be wise to think about their decisions and consider the timelines of the development and any infrastructure improvements that would be needed to support it. While he thinks the development is appropriate given a sufficient transportation network, he has concerns that the infrastructure will not keep pace with what will be developed in that part of the community.

Chairperson Clark stated that he agreed with the issue of the width of bridge and that it would become a bottleneck. However, he stated, the City is working on Old Reliance Road, Austin's Colony exists to compensate for some traffic concerns, and the Texas Department of Transportation will do what they can to mitigate congestion.

The motion passed with a vote of six (6) in favor and one (1) in opposition. Commissioner Parks opposed cast the vote in opposition.

6. Planning Variance PV08-11: B/CS Habitat for Humanity

M. Zimmermann

A request for approval of a variance from the minimum 50-foot width required of lots in residential zoning districts, to allow the creation of six new lots, each of which would be only 49.16 feet wide on 0.77 acres of land adjoining the north side of Cassib Street between Aggie Way and Thompson Street, being part of Lot 4 and all of Lots 10-13 in Block 2 of Stovall Addition in Bryan, Brazos County, Texas.

Chairperson Clark advised that this item is related to Regular Agenda item # 7.

Ms. Guindi presented a staff report (on file in the Development Services Department). The subject property is zoned Residential Density 5000, and is currently vacant. The property owners (B/CS Habitat for Humanity) are proposing to re-subdivide the property into six lots. Staff recommends approval of this set of variances based on the following findings:

- These six substandard lots will still allow for reasonable development with single-family homes and, if approved, will allow the creation of six new lots all of which will be significantly larger in size (5,653 square feet) than the minimum required 5,000 square feet;
- Granting the requested variance will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the area, but will in fact allow desirable infill residential development in this neighborhood; and
- In this particular case, approving the requested variance is believed to have the most likely long-range benefit, balancing both public and private purposes.

The public hearing was opened.

Mr. Jim Davis, 400 Timber Street, College Station, applicant, came forward to speak in favor of the request. He said that the lots are 115 ft. deep and above minimum lot size, but are not quite 50 ft which is why he is asking for a variance. He stated that he did put water and sewer taps along the side of property at the time the Angel's Gate Subdivision was developed.

The public hearing was closed.

Commissioner Parks moved to approve Planning Variance PV08-11. Commissioner Jones seconded the motion.

Chairperson Clark asked for discussion. There was none.

The motion passed with a unanimous vote.

7. Replat RP08-07: Stovall Addition, Block 2

M. Zimmermann

A proposed resubdivision of parts of Lots 4 and 6 and all of Lots 5 and Lots 10-13 in Block 2 of Stovall Addition, being 1.26 acres of land located between W. 28th and Cassib Streets, being in Bryan, Brazos County, Texas.

Ms. Guindi presented a staff report (on file in the Development Services Department). She stated that nine new residential lots will be created for single family dwelling units, and that an additional 15 feet of right-of-way for W. 28th Street is being proposed to be dedicated with this replat. She stated that since the variance was approved, the replat can also be approved, and that staff recommends approval of the request.

Responding to questions from Commissioner Maxwell, Ms. Guindi stated that the proposed lots facing W. 28th Street are wider than the proposed lots facing Cassib Street for which Commissioners just approved the variance.

Chairperson Clark observed that 28th does not have sidewalks. Ms. Guindi said the 15 feet allows for potentially putting in a curb and gutter.

The public hearing was opened.

Mr. Jim Davis, 400 Timber Street, College Station, applicant, came forward to speak in favor of the request. He stated the lots are 100 feet deep and wider than the required 50 feet. Commissioner Parks asked if it was Habitat for Humanity's intention to build homes on these lots. Mr. Davis confirmed this.

Mr. Lou Haus, 1609 W. 28th Street, Bryan, wanted clarification about whether his property was involved in this discussion. Chairperson Clark explained what was happening in the division of lots and the legal process involved.

The public hearing was closed.

Commissioner Parks moved to approve Replat RP08-07, as requested. Commissioner Jones seconded the motion.

Commissioner Parks said that this was a classic example of developing infill properties and development breathing life into older neighborhoods.

Commissioner Maxwell recognized the fact that the Commission is a critical body in enforcing the requirement of sidewalks.

The motion passed with a unanimous vote.

8. Planning Variance PV08-12: Felipe Jesus Tiu

M. Zimmermann

A request for approval of a variance from the minimum 7.5-foot side building setback generally required on lots in residential zoning districts, to allow a new single-family home to extend within 6.25 feet of both side property lines on approximately 0.2 acres of land adjoining the northeast side of Rabbit Lane approximately 100 feet northwest from its intersection with Tabor Road, being Lot 2 in Block 1 of Tara Ridge Subdivision in Bryan, Brazos County, Texas.

Ms. Guindi presented a staff report (on file in the Development Services Department). Staff recommends denying the requested variance based on the following findings:

- In this particular case, granting a variance from minimum building setback requirements in the absence of any special or unique circumstances on this lot (which exceeds minimum lot size standards by more than 3,700 square feet and has never been developed) appears to undermine adopted development standards;
- Approving the requested variance, in this particular case, may be detrimental and/or materially injurious to properties or improvements in the area;
- In this particular case, public benefit from compliance with minimum building setback standards is greater than any perceived hardships or difficulties imposed upon the owner/applicant to build a new single-family home in conformance with these standards; and
- There are alternatives for new home construction on this lot that do not require variances from ordinary development standards, which include installing the manufactured home at an angle instead of parallel to Rabbit Lane, installing a manufactured home that is 73 feet long or less, purchasing an additional 2.5 feet of land from one or both of the two abutting lots to allow construction of the manufactured home in the desired location, or constructing a conventional, site-built home.

Commissioner Davila asked if the other options had been discussed with the applicant. Ms. Guindi confirmed this and said that although she was not a part of those particular conversations, she understood that the applicant was considering some of the options but wanted to explore the variance option as well.

Responding to a question from Chairperson Clark, Ms. Guindi said there were no comments from other residents of the neighborhood that she was aware of.

Commissioner Parks confirmed that the lot was already 38.5 feet greater than the minimum. He asked if it would be more detrimental in the future, as properties develop, to have one angled dwelling and the rest be parallel if the applicant chose to place the home at an angle rather than parallel to Rabbit Lane. Ms. Guindi stated that at this point what they are considering is building separation and the crowding of structures. She maintained installing the dwelling at an angle would not be more detrimental because the 15 foot separation would be maintained between structures.

Responding to a question from Commissioner Maxwell, Ms. Guindi said that placing the home perpendicular to Rabbit Lane on the lot was not an option, because the home was too long.

The public hearing was opened.

Mr. Felipe Tiu, 5101 Leonard Road, Bryan, Texas, applicant, came forward to speak in favor of the request.

Commissioner Maxwell asked if he currently owned the manufactured home or if he was going to buy it. Mr. Tiu said that he already has the home.

The public hearing was closed.

Commissioner Bond moved to approve Planning Variance PV08-12, based on the following findings:

- **Granting the variance will not be detrimental to the public health, safety, or welfare or materially injurious to improvements in the area or to the properties abutting the property;**
- **Granting this variance would not only be an asset to the property but also would be attractive or more valuable to neighbors in the future instead of having it at an angle or any other considerations involved; and**
- **The hardships and difficulties imposed on owner would be greater since he already owns the manufactured home.**

Commissioner Horton seconded the motion.

Chairperson Clark stated that, in this case, the Commission already granted a variance on the depth of the lot. He said the rationale that the applicant gave at that time was that these lots are so wide, the depth would be acceptable, which the Commission agreed with. He stated that now the applicant is saying the lots are not wide enough. He stated that for those reasons, and because there are options available, it would not be injurious to the applicant to replat two feet on one side or the other allowing the applicant to accomplish the same goal and keep the minimum setback standards. He hopes the applicant chooses to go in that direction instead of installing the home at an awkward angle.

Commissioner Bond stated that 15 inches on each side is a somewhat small measurement. He said that for this reason, it would be more advantageous to place the home parallel to Rabbit Lane and line it up with future homes that would go on adjoining lots.

Commissioner Davila said that it sounds like the applicant has already acquired and owns the home, and that he would agree with Commissioner Bond's motion on this particular case.

Commissioner Parks said that he agrees with Commissioner Bond. However, he said that the Commission does not know what this home looks like, that they do not know how the other properties are going to develop, and that if they develop with similar structures all the way to the setback, there could potentially be a separation of no more than 10 feet with an overhang. He stated that he does not like angle issue, but they also do not know how this will be placed if they granted the variance. Ms. Guindi stated that the home would be centered in accordance with the site plan.

Chairperson Clark asked if the original developer still owned the adjacent lots. He stated that if he did, he would hope that that developer would help the applicant accomplish one of your other scenarios so that the developer would also benefit from not having the home at an awkward angle.

Commissioner Maxwell stated that Commissioners are not supposed to discuss how they are going to vote on the issue before they actually vote.

Mr. Gary, Assistant City Attorney, stated that Commissioner Maxwell was correct. He added that statements about the purchase of the house could not be considered by the Commission.

Commissioner Horton asked if there was any way that they could ask for the home to be moved farther back. Ms. Guindi said there was not.

Commissioner Horton said that the problem he sees is the applicant will have trouble getting a car around it.

Commissioner Davila asked Mr. Gary why the Commission could not consider whether or not the applicant already owned the home if the question is raised by a Commissioner to an applicant at the podium. Mr. Gary said that the ordinance stated that the Commission cannot consider any pecuniary hardship to the applicant.

The motion passed with a vote of four (4) in favor and three (3) in opposition. Commissioners Clark, Maxwell, and Parks cast the votes in opposition.

9. Zoning Ordinance Text Amendment TA08-01: City of Bryan

L. Guindi

Discussion and action as appropriate regarding a proposed amendment to Bryan Code of Ordinances, Section 130-3, "Definitions", so as to amend the definition of the term "adult entertainment" and to amend Section 130-2 "Purpose" to provide for specific purposes for these amendments and legislative findings to support these amendments as well as for ratification or to affirm the placement of "adult entertainment" uses in the current classification under Industrial District.

Ms. Guindi presented staff report (on file in the Development Services Department). She said the agenda item description sums up what the item is, and that is to amend the adult entertainment definition and provide specific legislative findings under the "Purpose" section of the zoning ordinance. She stated that she understood that the Assistant City Attorney would like to make some clarifications from what was presented in the workshop.

Chairperson Clark clarified that they did not have to legally read the amendment aloud during the proceeding. Ms. Guindi confirmed this observation.

Mr. Lee Veness, Assistant City Attorney, stated that in the memo, they need to make a slight change in terminology in how they define adult entertainment. He stated that adult entertainment is composed of a group of land uses involved in providing entertainment or amusement to a person or persons, such use being defined as an adult bookstore and so forth that the commission has in their memo. He stated that under the definitions, they will add #32 which will read "a change in the type of adult entertainment use or business from an adult arcade, adult bookstore, adult cabaret, adult escort service, adult massage establishment, adult hotel, adult movie theatre, adult novelty store, adult service establishment, adult video store, sex parlors, sexual encounter center, or a nude modeling studio or other adult entertainment use into another type of adult entertainment use or business such

as is related here constitutes a change in use as that is generally defined in Chapter 130 in the High Code of Ordinances Rule of Zoning”.

Mr. Veness confirmed a clarification from Commissioner Maxwell that if an establishment moves from any one of these 32 classifications to another, it will constitute a change in use. Commissioner Maxwell then asked if this applied to existing establishments. Mr. Veness stated that they have to look at the definition itself as to what that business currently is whether or not they are changing from that business into a different type of business. He gave the example of an adult hotel changing into an adult cabaret, which would be a change of use.

Commissioner Maxwell asked if the new language specifically sets up sub areas of adult entertainment, and if the change within any of these sub areas will constitute a change of use. Mr. Veness confirmed this.

Commissioner Parks said that in the ordinance, an adult entertainment use is allowed in the industrial zoning classification. Mr. Veness said that the reason they have it in there is related to the studies they are presenting and will be presented to the City Council. Commissioner Parks asked if there was anything in the law that would prevent it from going into that zone as a conditional use, rather than allowing an adult entertainment use as a permitted use. Mr. Veness explained that under the current ordinance, there is a dispersal provision that is designed to separate businesses out from residential areas, schools, churches, and from each other; to a certain extent that is a conditional use.

Commissioner Parks said that he thought further study of the zoning code would show that they do differentiate within a zone those uses that are permitted. He suggested that if the text amendment is approved tonight, this issue should be looked at .

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Maxwell moved to recommend approving Zoning Ordinance Text Amendment TA08-01, accepting the findings and recommendations of staff. Commissioner Jones seconded the motion.

Responding to a request from Commissioner Parks, Ms. Guindi stated that the screening standards for an industrial use would apply to open storage; if specific merchandise were stored outside, there would specific screening requirements. She said there are sections within the Penal Code that would not allow the display of offensive material from inside the store if it could be offensive to a minor that might be in the area. She also said there are landscaping standards which would be like any other industrial development. She stated that it would go through the same site development process and comply with any other similar use, and that the only difference in site standards that are typical in industrial sites is when dealing with open storage and large wheel-based vehicles, etc.

Commissioner Parks said the text leaves a blank on page 14 to indicate the percent of industrial area in the city. Ms. Guindi said that it was 33% and that it was an adequate percentage for cities the size of Bryan. She also confirmed a question from Commissioner Parks that even if a use is in an industrial zone, it still must comply with a 1000 foot buffer from a church, school, or residence.

Commissioner Parks stated that as the Commission makes this recommendation to City Council, it should be considered to allowing adult entertainment uses as conditional use only, provided there is precedent to do so.

The motion passed with a unanimous vote.

10. ADJOURN

Without objection, Chairperson Clark adjourned the regular meeting at 7:00 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the **19th** day of **June, 2008**.

John R. Clark, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Lindsey Guindi, Planning Manager and
Secretary to the Planning and Zoning
Commission